

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CITIZENS UNITED	)	
1006 Pennsylvania Avenue, S.E.	)	
Washington, DC 20003,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Civil Action No. 19-cv-2902
UNITED STATES DEPARTMENT	)	
OF TREASURY	)	
1500 Pennsylvania Avenue, N.W.	)	
Washington, DC 20220,	)	
	)	
Defendants.	)	
	)	

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**COMPLAINT**

Plaintiff Citizens United brings this action against Defendant the United States Department of Treasury (“Treasury Department”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges the following:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff Citizens United is a Virginia non-stock corporation with its principal place of business in Washington, D.C. Citizens United is organized and operated as a non-profit membership organization that is exempt from federal income taxes under Section 501(c)(4) of the U.S. Internal Revenue Code. Citizens United seeks to promote social welfare through

informing and educating the public on conservative ideas and positions in issues, including national defense, the free enterprise system, belief in God, and the family as the basic unit of society. In furtherance of those ends, Citizens United produces and distributes information and documentary films on matters of public importance. Citizens United regularly requests access to the public records of federal government agencies, entities, and offices, to disseminate its findings to the public through its documentary films and publications.

4. Defendant the United States Department of Treasury is an agency of the United States Government and is headquartered at 1500 Pennsylvania Avenue N.W., Washington, D.C. 20220. Defendant has possession, custody, and control of the records Plaintiff seeks.

#### **STATEMENT OF FACTS**

5. Citizens United routinely submits FOIA requests, and this matter concerns one FOIA request letter submitted to Defendant Treasury Department on June 21, 2019 to which Defendant has failed to respond substantively.

6. On June 21, 2019, Citizens United submitted a FOIA request, online, to Defendant. *See Exhibit A.* The request sought:

All records relating to the appointment of former Harvard Law Professor and current U.S. Senator Elizabeth Warren as Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau

All letters, notes, memos, policy papers or recommendations, phone message slips, and/or daily schedules belonging to or generated by former Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau Elizabeth Warren.

All emails to or from Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau Elizabeth Warren and any employee of the Executive Office of the President or the following former Treasury Department officials: Treasury Secretary Timothy Geithner, former Deputy Treasury Secretary Neal Wolin, former Treasury Department General Counsel George Madison or former Consumer Financial Protection Bureau implementation team

members Richard Cordray, Raj Date, Len Kennedy, Meredith Fuchs, Roberto Gonzalez or Michael Gordon.

The time period covered by the FOIA request was January 1, 2010 to August 31, 2011.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant is required to respond to Citizens United's FOIA requests within 20 working days of each request.

8. The Treasury Department acknowledged receipt of the FOIA request by letter dated August 5, 2019, assigning the request Tracking Number 2019-06-171, and notifying Citizens United that its request for expedited processing was denied. The Treasury Department also listed the three statutory factors which define "unusual circumstances" which allow the agency an additional 10 days in which to process the FOIA request.<sup>1</sup> *See Exhibit A. See also* 5 U.S.C. § 552(a)(6)(B)(iii).

9. With regard to Citizens United's FOIA request, the statutory deadline has passed, and Defendant has failed to provide a substantive response to the FOIA request. In fact, as of the date of this Complaint, Defendant has failed to produce a single responsive record or assert any claims that responsive records are exempt from production.

10. Since Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i) or even with the time limit as extended by § 552(a)(6)(B)(i), Citizens United is deemed to have fully exhausted any and all administrative remedies with respect to its FOIA requests. *See* 5 U.S.C. § 552(a)(6)(C).

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<sup>1</sup> In late July, Citizens United received a letter dated July 25, 2019, from the Consumer Financial Protection Bureau ("CFPB") acknowledging receipt of a FOIA request. *See Exhibit B.* Citizens United did not submit any such request to CFPB. The letter repeated the substance of the FOIA request to Treasury, but did not state that the FOIA request had been referred to CFPB by Treasury. Nor has Citizens United received any correspondence from Treasury indicating that its FOIA request had been referred to CFPB.

**CAUSE OF ACTION**  
**(Violation of FOIA, 5 U.S.C. § 552)**

11. Plaintiff realleges paragraphs 1 through 10 as though fully set forth herein.

12. Defendant the Treasury Department has failed to make a determination regarding Citizens United's June 21, 2019 FOIA request for records related to Special Advisory to the Secretary of the Treasury Elizabeth Warren (2019-06-171) within the statutory time limit and is unlawfully withholding records requested by Citizens United pursuant to 5 U.S.C. § 552.

13. Citizens United is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Citizens United will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Citizens United requests that the Court grant all appropriate relief for the violations of FOIA alleged above, including:

- a. An order and judgment requiring the Defendants to conduct a search for any and all records responsive to Citizens United's FOIA request and to demonstrate that it employed search methods reasonably likely to lead to the discovery of all records responsive to Citizens United's request;
- b. An order and judgment requiring the Defendants to produce, by a date certain, any and all non-exempt records responsive to Citizens United's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption;
- c. An order and judgment permanently enjoining Defendants from continuing to withhold any and all non-exempt records in this case that are responsive to Citizens United's FOIA request;

- d. Attorneys' fees and costs to Plaintiff pursuant to any applicable statute or authority, including 5 U.S.C. § 552(a)(4)(E); and
- e. Any other relief that this Court in its discretion deems just and proper.

/s/ Jeremiah L. Morgan

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Dated: September 26, 2019

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CITIZENS UNITED